IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2566 OF 2005

Babloosingh Ratansingh Juni
@ Shikalkar and another ... Applicants

versus

The State of Maharashtra ... Respondent

...

Mr.Nitin H. Sejpal, for the Applicants.

Mr.A.S. Gadkari, A.P.P.,for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

3rd May 2005

P.C.:

. Heard Counsel for the parties. Perused the record. The Applicants have approached this Court for two reasons. It is contended that the Applicants are entitled for bail on parity along with Shakunsingh Bahadursingh Shikalkar. It is also contended that inspite of direction given by this Court for early trial, no progress has been

made in the trial.

. Insofar as the first contention of the Applicants is concerned, the same is opposed by the learned A.P.P. on the ground that the role of the Applicants is different than the role of the co-accused Shakunsingh Bahadursingh Shikalkar. Insofar as the Applicants are concerned, they had taken direct part in the commission of the main crime. However, from the materials on record, it is seen that no identification parade has been held. In that sense, there is no legal evidence to establish the position that the Applicants had participated in the main crime. Learned A.P.P. submits that no identification parade was held as no useful purpose would have been served as the prosecution case is that the dacoits had arrived on the scene of offence and their faces were tied by cloth and were not noticeable. Be that as it may, the fact remains that there is no evidence to establish the position that the Applicants actually participated in the commission of the main crime. If it is so, the only material that remains for consideration against the Applicants is that of

recovery of gold at the instance of the Applicants, as is the case of co-accused Shakunsingh Bahadursingh Shikalkar.

. According to the learned A.P.P., insofar as the present Applicants are concerned, there are antecedents against them. Insofar as Applicant No.1 is concerned, one case is registered against him at Alibag Police Station and one case is registered against Applicant No.2 at Mira Road Police Station. He submits that the Applicants are dreaded criminals and may not be available for trial if released on bail. This apprehension can be taken care of by directing them to furnish two local sureties and to appear before the trial Court on every singular day of hearing. Accordingly, this application succeeds on the following terms.

(A) The Applicants are directed to be released on bail in connection with CR.No.I-45/2004 registered with Mira Road Police Station on executing personal bond in the sum of Rs.50,000/- (Rupees Fifty

thousand only) each with two local sureties in the like amount. This condition has been imposed having regard to the serious apprehension expressed by the prosecution about the possibility of the Applicants not making themselves available for trial and are habitual offenders.

(B) The Applicants shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(C) The Applicant shall not leave the jurisdiction of Mira Road Police Station without the prior permission of the trial Court.

(D) The Applicant shall report to the investigating officer daily between 4 p.m. and 6 p.m. till the commencement of the trial and thereafter appear before the trial Court on every singular day. In case of one default by the Applicants

to abide by the above condition, it will be open to the Respondent to take out appropriate proceedings against the Applicants and proceed in accordance with law.

(D) The Applicants shall co-operate for the early disposal of the trial. If the trial Court is of the opinion that the Applicants are in any manner responsible for the delay in disposal of the trial, that fact be recorded in the roznama, which can be a ground for cancellation of bail.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)